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Attorneys for Plaintiff and Counter-Defendant CENTOCOR ORTHO BIOTECH, INC. and Third-Party Defendants GLOBAL PHARMACEUTICAL SUPPLY GROUP, LLC, CENTOCOR BIOLOGICS, LLC and JOM PHARMACEUTICAL SERVICES, INC.

CENTRAL DISTRICT OF CALIFORNIA, WESTERN DIVISION

Defendants.

Date: TBA
Time: TBA
Place: Hon. Mariana Pfaezler,
Courtroom 12

AND RELATED COUNTER AND
THIRD-PARTY ACTIONS.

1 **I. INTRODUCTION**

2 Pursuant to Local Rule 7-19, Plaintiff Centocor Ortho Biotech, Inc.
 3 (“Centocor”) hereby reapplies its *ex parte* application to the Court for an order
 4 amending the case schedule to allow for sufficient time to take discovery in light of
 5 witness unavailability before the current deadline for fact discovery. Specifically,
 6 Plaintiff respectfully requests an order extending the deadline for fact discovery until
 7 May 28, 2010.

8 Pursuant to Local Rules 7-19 and 7-19.1, counsel for Plaintiff contacted
 9 counsel for Defendants to advise them of the substance of the instant amended *ex*
 10 *parte* application. Counsel indicated that Defendants would not oppose Plaintiff’s
 11 amended *ex parte* application. The contact information for Defendants’ counsel
 12 City of Hope Medical Center and Genentech, Inc. are as follows:

13 David I. Gindler
 14 Joseph M. Lipner
 15 Irell & Manella LLP
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1 On March 11, 16, and 19, 2010, Matthew Pearson, counsel for Centocor, spoke
2 via telephone with Marc Sernel, counsel for defendant Genentech. On March 30,
3 2010, Angela Verrecchio, counsel for Centocor, spoke via telephone with Adam
4 Brausa, counsel for defendant Genentech. Mr. Pearson and Ms. Verrecchio advised
5 Mr. Sernel and Mr. Brausa, respectively, of, to the extent known, the date, time and
6 substance of the Application. After such notification, counsel represented that
7 Genentech would not oppose this Application.

8 On March 19, 2010, Mr. Pearson spoke via electronic mail with David
9 Gindler, counsel for defendant City of Hope. On March 25, 2010, Ms. Verrecchio
10 spoke via electronic mail with Mr. Gindler. Mr. Pearson and Ms. Verrecchio advised
11 Mr. Gindler of, to the extent known, the date, time and substance of the Application.
12 After such notification, counsel represented that City of Hope would not oppose this
13 Application.

14 **II. GOOD CAUSE EXISTS TO GRANT PLAINTIFF'S REQUEST FOR**
15 **CONTINUANCE OF THE CASE SCHEDULE**

16 An extension of the fact discovery deadline, which is currently April 30, 2010,
17 is necessary because there remain numerous depositions to be taken of all parties'
18 witnesses. One of these witnesses is Wendy Lee, who recently had a baby and thus
19 has not been available and is not available for a deposition until the week after the
20 close of fact discovery. Ms. Lee is an attorney who was involved in the prosecution
21 of one of the patents in suit, and she is listed on Genentech's Initial Disclosures as
22 likely having relevant information about that prosecution. Centocor expects her
23 testimony to be highly relevant because the record reflects that she was a prosecuting
24 attorney for Genentech who made statements to the U.S. Patent and Trademark
25 Office that Centocor contends contradict earlier statements made by another
26 Genentech attorney in a European proceeding involving the European counterpart to
27 the Cabilly patent in suit.
28

1 Because of Ms. Lee's apparent role in the prosecution of the Cabilly patent
 2 family at issue, her deposition may lead to additional depositions of other persons
 3 similarly involved. In addition, expert witnesses may be asked to opine on her
 4 testimony and any follow-up discovery, and would need a reasonable opportunity to
 5 prepare those opinions.

6 Centocor therefore respectfully requests an extension of the deadline for fact
 7 discovery in this case through May 28, 2010. The following additional dates are
 8 proposed, corresponding to a May 28, 2010 fact discovery deadline and culminating
 9 with a proposed summary judgment hearing on October 11, 2010.

11	Opening Expert Reports:	June 17, 2010
12	Responsive Expert Reports:	July 26, 2010
13	Expert Discovery completed:	August 20, 2010
14	Opening Summary Judgment Motions:	August 30, 2010
15	Oppositions to Summary Judgment:	September 20, 2010
16	Replies in Support of Summary Judgment:	September 27, 2010
17	Summary Judgment hearing:	October 11, 2010

18
 19 Although a shorter extension of deadlines might allow adequate time for fact
 20 discovery to be completed, it would severely prejudice Centocor's ability to prepare
 21 its case for trial. Centocor's technical expert, Dr. Randall Wall, will be unavailable
 22 from June 18 through July 20 and again from August 1 through August 15. The
 23 schedule and length of extension proposed here are the minimum needed due to
 24 Dr. Wall's preexisting commitments.

1 **III. CONCLUSION**

2 For the foregoing reasons, Plaintiff respectfully requests that this Court
3 continue the dates set forth in the Court's Scheduling Order as requested herein.
4

5 DATED: April 1, 2010

Respectfully submitted,

6 AKIN GUMP STRAUSS HAUER & FELD LLP

7 By: /s/ Dianne B. Elderkin

8 Dianne B. Elderkin

9 and

10 CONNOLLY BOVE LODGE & HUTZ LLP

11 By: /s/ Bruce G. Chapman

12 Bruce G. Chapman

13 Attorneys for Plaintiff and Counter-Defendant
14 Centocor Ortho Biotech, Inc. and Third-Party
15 Defendants Global Pharmaceutical Supply
16 Group, LLC, Centocor Biologics, LLC and
17 JOM Pharmaceutical Services, Inc.
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